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tic's estate, since the residence of the committee rather than that of the lunatic governed.

[Ed. Note.—For other cases, see *Insane Persons*, Cent. Dig. § 159; Dec. Dig. § 91.* 7 Va.-W. Va. Enc. Dig. 796-7.]

2. Insane Persons (§ 92*)—Committee—Actions.—Where a committee has been appointed for a lunatic, every suit respecting his person or estate must be by or against the committee.

[Ed. Note.—For other cases, see *Insane Persons*, Cent. Dig. § 163; Dec. Dig. § 92.* 7 Va.-W. Va. Enc. Dig. 796-797.]

3. Witnesses (§ 144*)—Competency—Insane Persons.—Where one who had since become insane was the other party to a contract with complainant, complainant was disqualified by the express terms of Code 1904, § 3346a, to testify in his own behalf with relation thereto.

[Ed. Note.—For other cases, see *Witnesses*, Cent. Dig. §§ 625-643; Dec. Dig. § 144.* 13 Va.-W. Va. Enc. Dig. 953.]

4. Insane Persons (§ 75*)—Supplies—Provision by Volunteer.—Where complainant furnished supplies to an insane person without any obligation, legal or moral, complainant was a mere volunteer, and could recover against the incompetent's estate only the actual amount of his expenditure, with interest.

[Ed. Note.—For other cases, see *Insane Person*, Cent. Dig. §§ 89, 128, 129; Dec. Dig. § 75.* 7 Va.-W. Va. Enc. Dig. 693.]

Appeal from Circuit Court, Montgomery County.

Suit by Sidney Sheltman against Victoria A. Bell, as Committee of Margaret Taylor, and others. From a decree of dismissal without prejudice, complainant appeals. Affirmed as modified.

W. B. Kegley, of Wytheville, and *M. H. Tompkins*, of Cambria, for appellant.

W. M. Pierce, of Christiansburg, for appellees.

ROSE *v.* COMMONWEALTH.

Sept. 7, 1914.

[82 S. E. 699.]

1. Indictment and Information (§ 147*)—Counts—Demurrer.—A general demurrer to an indictment containing more than one count must be overruled if there is one good count in the indictment.

[Ed. Note.—For other cases, see *Indictment and Information*, Cent. Dig. §§ 490-494; Dec. Dig. § 147.* 7 Va.-W. Va. Enc. Dig. 499.]

2. Criminal Law (§ 878*)—Verdict—Counts.—A verdict finding ac-

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

cused guilty as charged in the second count of the indictment, but saying nothing concerning the first count, is in effect an acquittal of the offense charged in the first count.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. §§ 2098-2101; Dec. Dig. § 878* 13 Va.-W. Va. Enc. Dig. 612.]

3. Elections (§ 328*)—Use of Funds—Statutes—Indictment.—Code 1904, § 145a subd. 1, provides that no candidate for certain public offices shall expend, promise, or loan any money or valuable thing to influence voters in his behalf, or permit the same to be so used with his knowledge and consent by his friends or adherents in any election, primary, or nominating convention, and subdivision 2 provides that any person who shall violate the provisions of the subdivision shall be subject to fine and imprisonment. Held, that the gist of the offense was the use of money, etc., to influence voters in behalf of a candidate, and hence an indictment merely alleging that accused, who was a candidate for the office of sheriff, did expend, promise, pay, or loan, or become pecuniarily liable for money or other valuable thing to various persons whose names were to the grand jury unknown, and failing to allege that the acts accused was charged with doing were done to influence a voter or voters in behalf of defendant as a candidate, was fatally defective.

[Ed. Note.—For other cases, see Elections, Cent. Dig. §§ 355, 357-363; Dec. Dig. § 328.* 5 Va.-W. Va. Enc. Dig. 52.]

4. Indictment and Information (§ 93*)—Requisites.—A conviction of an alleged offense cannot be sustained where all the facts stated in the indictment might be true and still accused not be guilty of the offense intended to be charged against him.

[Ed. Note.—For other cases, see Indictment and Information, Cent. Dig. § 266; Dec. Dig. § 93.* 7 Va.-W. Va. Enc. Dig. 403.]

5. Criminal Law (§ 1063*)—Appeal—Indictment.—Where no offense is charged in an indictment, the appellate court will reverse a conviction though no motion in arrest of judgment has been made at the trial.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. §§ 2673, 2676-2684; Dec. Dig. § 1063.* 1 Va.-W. Va. Enc. Dig. 587.]

Error to Circuit Court, Wise County.

Hiram Rose was convicted of violating the election law, and brings error. Reversed.

Chase & Daugherty, of Grundy, for plaintiff in error.

Jno. Garland Pollard, Atty. Gen., and *C. B. Garnett*, Asst. Atty. Gen., for the Commonwealth.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep Indexes.